



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/916,076

07/26/2001

Hechun Chen

518

7947

47827

7590

11/15/2005

BIRCH, STEWART, KOLASCH & BIRCH LLP

PO BOX 747

8110 GATEHOUSE ROAD, STE 500 EAST

FALLS CHURCH, VA 22040-0747

EXAMINER

PATEL, AJIT

ART UNIT

PAPER NUMBER

2664

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**Application No. **09/916,076**Applicant(s) **CHEN ET AL**Examiner **AJIT G. PATEL**Art Unit **2664**

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 18 is/are rejected.
- 7) ☒ Claim(s) 16, 17, 19 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2664

1. Applicant is requested to provide the status of the co-pending applications recited on para. first of the page one of the specification.

2. Claims 1,6 are objected to because of the following informalities: In claim 1, line 7, "form" should be changed to --from--; In claim 6, line 2 "form" should be changed to --from--. Appropriate correction is required.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5,7-12,14,15,18 are rejected under 35 U.S.C. 102(e) as being anticipated by Zadikian et al (US PUB. # 2005/0185654).

Regarding claims 1, and 8, Zadikian et al disclose a method for providing network services incorporating the steps of obtaining path parameters including scheduled load and availability information for each network element of the network (0154,0156); automatically performing discovery of paths including determining connection possibilities based upon the path parameters (0178,); and automatically provisioning an end-to-end STS-n path on the paths resulting from the discovery (0164 imply that the network is a SONET/SDH network which inherently set STS-n paths).

Regarding claims 2 and 9, Zadikian et al disclose the limitation "wherein the path parameters include at least one additional parameter selected from the group costing of bandwidth size, start network element, end network element, add facility, drop facility, link information, cross connection information, equipment information and facility information" (0167).

Regarding claims 3,10, Zadikian et al disclose the limitation "wherein the automatic discovery includes building a list of all possible connections for the end-to-end path" (0178).

Regarding claims 4,11, Zadikian et al disclose the limitation "wherein the automatic provisioning includes selecting a least cost path from the discovered paths and setting the least-cost path as working path" (0205).

Regarding claims 5,12, Zadikian et al disclose the limitation "wherein the least cost path is the shortest path based on the number of network element hops" (0205).

Regarding claim 7,14, Zadikian et al disclose the limitation "wherein the network has UPSR protection scheme, automatically provisioning facility fault protection (FFP) and cross connections" (0084,0010,0048,0053,0138).

Regarding claim 15,18, Zadikian et al disclose the limitation "wherein said automatic provisioning performs dynamic allocation of bandwidth based on one or more factors selected from the group consisting of traffic type, desired quality of service, and the scheduled load and availability information" (0047,0168).

Art Unit: 2664

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zadikian et al.

Zadikian et al disclose all the claimed subject matter as described in previous paragraph except the step of selecting a second least cost path from the discovered paths and setting the second least cost path as the protection path. Zadikian et al disclose in para. 0205 the list of the paths based on the costs. However, selecting a second least cost path from the discovered paths and setting the second least cost path as the protection path would have been obvious to one skilled in the art in order to make the system more reliable and cost effective.

5. Claims 16,17,19,20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Applicant's arguments, see pages 6,7, filed 7/1/2005, with respect to the rejection(s) of claim(s) 1-14 under Bortolotto et al have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Zadikian et al.

Art Unit: 2664

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AJIT G. PATEL whose telephone number is 571-272-3140. The examiner can normally be reached on MONDAY-THURSDAY.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 571-272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AP

  
Ajit Patel  
Primary Examiner